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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,521	10/16/2003	Hyun-kwon Chung	1793.1077	4904
49455 7590 05/28/2008 STEIN, MCEWEN & BUI, LLP 1400 EYE STREET, NW SUITE 300 WASHINGTON, DC 20005				
EXAMINER				
PRCT, NATHAN E				
ART UNIT		PAPER NUMBER		
2194				
MAIL DATE		DELIVERY MODE		
05/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/686,521

Applicant(s)

CHUNG ET AL.

Examiner

NATHAN PRICE

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

Continuation of 3. NOTE: The claim amendments add limitations not previously examined, such as the interactive mode being selected by the user.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that finality is premature and new references should be included in the grounds for rejection. Examiner respectfully disagrees. Goodman and American Heritage College Dictionary were cited to aide Applicant in understanding Examiner's position and interpretation of the claims and references used in the rejections. Goodman and American Heritage College Dictionary were not relied upon to teach or reject claimed features.

References AD through AK on the IDSes filed 26 March 2008 have been considered. Reference AL on the IDSes filed 26 March 2008 have not been considered because they do not conform with 37 CFR 1.98(a)(3).

Amendments to the specification and drawings are acknowledged and acceptable. The objections to the drawings are withdrawn.

As stated in the final rejection mailed 13 March 2008, Examiner acknowledges Applicant's comments regarding a terminal disclaimer and relevant obvious double patenting rejections will be held in abeyance.

With respect to the obvious double patenting rejections involving applications 10/685,694, 10/685,696, 10/685,699 and 10/686,537, the claims are not identical, but claim 1 of the current case is anticipated by the copending claims at least because claims 7 - 9 of 10/685,694, claim 3 of 10/685,696, claim 9 of 10/685,699 and claim 4 of 10/686,537 recite APIs that perform functionality that anticipates outputting buffering state in response to a report signal as claimed in the current application. The computer readable storage medium of claim 17 of 10/685,697 anticipates an apparatus as claimed in current claim 1.

Regarding rejections of claims 19 - 22 under 35 U.S.C. 112, 2nd paragraph, and 101, Examiner has discussed the rejections with the current SPE (Meng An, SPE 2194, phone number 571-272-3756). The rejections are maintained because reciting elements that can be implemented in software alone in the body of the claim is inconsistent with the preamble, raising the question as to whether or not the claims are actually directed towards an apparatus. Adding an element that recites physical structure of the apparatus will overcome these rejections.

Regarding rejections of claims 23 and 24 under 35 U.S.C. 112, 2nd paragraph, Applicant argues the term "ENAV" was known to those of ordinary skill in the art at the time Applicant's invention was filed. Although the terms "ENAV" and "enhanced navigation" became known before Applicant's filing dates, it is not clear that the metes and bounds defined by these terms were known to those of ordinary skill in the art at the time Applicant's invention was filed or in December 2000 as argued. Specifically, the evidence cited by Applicant indicates the specification for ENAV was nearing completion in mid 2003 (see citation at bottom of page 25 of Applicants remarks). The specification was not known in December 2000 if it did not near completion until 2003. Additionally, Bush et al (see PTO-892 mailed 19 October 2007) specifically states that the features of ENAV were not known (see 4th search result in reference W on PTO-892 mailed 19 October 2007 for a date of Bush et al). Therefore, although the terms "ENAV" and "enhanced navigation" became known before Applicant's filing dates, it is not clear that the metes and bounds defined by these terms were known to those of ordinary skill in the art at the time Applicant's invention was filed or in December 2000 as argued.

Applicant's arguments regarding prior art rejections are directed towards amendments filed 13 May 2008, which are not being entered due to added limitations that require further search and consideration.